

SENATE BILL 705

By Stanley

AN ACT to enact the Parental Choice Scholarship Program
Act of 2007.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 49, Chapter 6, is amended by adding Sections 2 through 7 of this act as a new, appropriately designated part.

SECTION 2. This act shall be known and may be cited as the "Parental Choice Scholarship Program Act of 2007".

SECTION 3. As used in this part, unless the context otherwise requires:

(1) "Department" means the department of education;

(2) "Eligible student" means a student who:

(A) Is a member of a household whose total annual income does not exceed an amount equal to two and one half (2.5) times the income standard used to qualify for reduced price lunch pursuant to 42 U.S.C. §§ 1751-1769;

(B) Was eligible to attend a public school in the preceding semester or is starting school in Tennessee for the first time; and

(C) Resides in Tennessee while receiving a scholarship under this part;

(3) "Parent" includes a guardian, custodian or other person with the authority to act on behalf of the child;

(4) "Participating school" means either a public school outside of the resident school district or any nonpublic school that provides education to elementary or secondary students or both and has notified the department of its intention to participate in the program and comply with the program's requirements;

(5) "Program" means the Parental Choice Scholarship Program created in this part; and

(6) "Resident school district" means the public school district in which the student resides.

SECTION 4.

(a) Any eligible student shall qualify for an annual scholarship to attend a participating school.

(b) Eligible students may attend a participating school until graduation from high school or reaching twenty-one (21) years of age, whichever occurs first.

(c) Scholarship amounts shall be calculated according to the following schedule:

(1) For students from households qualifying for the federal free or reduced-price lunch program, the scholarship amount shall be equal to the lesser of:

(A) The participating school's annual cost per pupil, including both operational and capital facility costs; or

(B) The dollar amount the resident school district would have allocated per pupil from state and local sources to serve and educate the eligible student had the student enrolled in the resident school district;

(2) For students from households with an annual income greater than the amount required to qualify for the free or reduced lunch program but less than one and one half (1.5) times that amount, the scholarship amount shall be equal to the lesser of:

(A) Seventy-five percent (75%) of the dollar amount the resident school district would have allocated per pupil from state and local sources to serve and educate the eligible student had the student enrolled in the resident school district; or

(B) The participating school's annual cost per pupil, including both operational and capital facility costs.

(3) For students from households with an annual income of greater than one and one half (1.5) times the amount required to qualify for the free or reduced lunch program but less than two (2) times that amount, the scholarship amount shall be equal to the lesser of:

(A) Fifty percent (50%) of the dollar amount the resident school district would have allocated per pupil from state and local sources to serve and educate the eligible student had the student enrolled in the resident school district; or

(B) The participating school's annual cost per pupil, including both operational and capital facility costs; and

(4) For students from households with an annual income of greater than two (2) times the amount required to qualify for the free or reduced lunch program but less than two and one half (2.5) times that amount, the scholarship amount shall be equal to the lesser of:

(A) Twenty-five percent (25%) of the dollar amount the resident school district would have allocated per pupil from state and local sources to serve and educate the eligible student had the student enrolled in the resident school district; or

(B) The participating school's annual cost per pupil, including both operational and capital facility costs.

(d) The scholarship is the entitlement of the eligible student under the supervision of the student's parent and not that of any school.

(e) A participating school may not refund, rebate or share a student's scholarship with a parent or the student in any manner. A student's scholarship may only be used for educational purposes.

(f) Eligible students who qualify for the federal free or reduced lunch program may attend any participating school in the parental choice scholarship program at no charge to the student. That is, the scholarship under this part shall cover the cost of all tuition and mandatory fees for such students. Participating schools may charge the difference between the scholarship amount and all tuition and mandatory fees for eligible students from households with incomes that exceed the annual income required to qualify for free or reduced lunch program.

(g) Participating schools that have more eligible students applying than spaces available shall fill the available spaces by a random selection process, except that participating schools may give preference to siblings of enrolled students and previously enrolled scholarship students under this part.

(h) If a student is denied admission to a participating school because it has too few available spaces, the eligible student may transfer the student's scholarship to a participating school that has spaces available.

(i) Eligible students shall be counted in the enrollment figures for their resident school district for the purposes of calculating state funding to the resident school district. The state funds needed for a scholarship shall be subtracted from the state school funds payable to the student's resident school district. Any aid the school district would have received for the student in excess of the funds needed for a scholarship shall be kept by the state.

(j) The department shall adopt rules and regulations consistent with this act regarding:

(1) The eligibility and participation of nonpublic schools, including timelines that will maximize student and public and nonpublic school participation;

(2) The calculation and distribution of scholarships to eligible students; and

(3) The application and approval procedures for scholarships for eligible students and participating schools.

All such rules and regulations shall be promulgated in accordance with the provisions of Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 5.

(a) To ensure that students are treated fairly and kept safe, all participating schools shall:

(1) Comply with all health and safety laws or codes that apply to nonpublic schools;

(2) Hold a valid occupancy permit, if required by their municipality;

(3) Certify that they will not discriminate in admissions on the basis of race, color, national origin, religion or disability; and

(4) Comply with all state laws that apply to nonpublic schools regarding criminal background checks for employees and exclude from employment any people not permitted by state law to work in a nonpublic school.

(b) To ensure that public funds are spent appropriately, all participating nonpublic schools shall:

(1) Demonstrate their financial accountability by:

(A) Submitting a financial information report for the school that complies with uniform financial accounting standards established by the department and conducted by a certified public accountant; and

(B) Having the auditor certify that the report is free of material misstatements and fairly represents the costs per pupil under subsection (c) of Section 4 of this act. The auditor's report shall be limited in scope to those records that are necessary for the department to make payments to participating schools on behalf of parents for scholarships.

(2) Demonstrate their financial viability by showing they can repay any funds that might be owed the state, if they are to receive fifty thousand dollars (\$50,000) or more during the school year, by:

(A) Filing with the department prior to the start of the school year a surety bond payable to the state in an amount equal to the aggregate amount of the parental choice scholarships expected to be paid during the school year to students admitted at the participating school; or

(B) Filing with the department prior to the start of the school year financial information that demonstrates the school has the ability to pay an aggregate amount equal to the amount of the parental choice scholarships expected to be paid during the school year to students admitted at the participating school.

(c) To ensure that schools provide academic accountability to parents of students in the program, all participating schools shall regularly report to the parent on the student's progress.

(d) A participating school is autonomous and not an agent of the state or federal government and therefore:

(1) The department or any other state agency may not in any way regulate the educational program of a participating school that accepts a parental choice scholarship;

(2) The creation of this program does not expand the regulatory authority of the state, its officers or any school district to impose any additional regulation of nonpublic schools beyond those necessary to enforce the requirements of the program; and

(3) Participating schools shall be given the maximum freedom to provide for the educational needs of their students without governmental control.

SECTION 6.

(a) The department shall ensure that eligible students and their parents are informed annually of which schools will be participating in the parental choice scholarship program. Special attention shall be paid to ensuring that lower income families are made aware of the program and their options.

(b) The department shall create a standard application that students interested in the parental choice scholarship program can use to submit to participating schools to establish their eligibility and apply for admissions. Participating schools may require supplemental information from applicants. The department shall ensure that the application is readily available to interested families through various sources, including the Internet.

(c) The department may bar a school from participation in the parental choice scholarship program, if the department establishes that the participating school has:

(1) Intentionally and substantially misrepresented information required under Section 5 of this act;

(2) Routinely failed to comply with at least three of the accountability standards established in Section 5 of this act;

(3) Failed to comply with subsection (e) of Section 4 of this act; or

(4) Failed to refund to the state any scholarship overpayments in a timely manner.

(d) If the department decides to bar a participating school from the program, it shall notify eligible students and their parents of this decision as quickly as possible.

(e) The department shall adopt rules and regulations as necessary for the administration of the parental choice scholarship program. All such rules and regulations shall be promulgated in accordance with the provisions of Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 7.

(a) The resident school district shall provide to the participating school that has admitted an eligible student under this program with a complete copy of the student's school records while complying with the Family Educational Rights and Privacy Act of 1974, 20 U.S.C § 1232g.

(b) The resident school district shall provide transportation for the eligible student to and from the participating school under the same conditions as the resident school district is required to provide transportation for other resident students to nonpublic schools according to state law. The resident school district shall qualify for state transportation funding for each student so transported.

SECTION 8. This act shall take effect July 1, 2007, the public welfare requiring it.